

REMARKS

Claims 1-10 and 15-22 are pending. In the Advisory Action mailed February 24, 2010, the Examiner indicated that the amendments in the Response filed February 3, 2010 have been entered but refused entry and consideration of the §132 Declaration presented therewith. The Examiner also indicated that the replacement figures were inadvertently omitted from the materials filed on February 3, 2010. The Examiner further indicated that the amendments overcame the §112, first paragraph rejections but failed to overcome the §112, second paragraph rejection of claims 20-22. Notes 4 and 5 of the Advisory Action appear to indicate that the Examiner has sustained each of the outstanding prior art rejections. Applicant notes that such a position is based at least in part on the Examiner's refusal to enter the §132 declaration, a courtesy copy of which is attached hereto.

In setting forth the §112, second paragraph rejections, the Examiner states that "Applicants comments that in claim 20 'operating state change means for automatically reversing the direction ...' could simply be a housing do not seem reasonable as a housing alone has little if any connection to the function automatically reversing." The Examiner further asserts that, "In any case, the Jordan reference discloses a housing in column 4 line 53, clearly anticipating application construction of the limitation." Such an interpretation evidences a misunderstanding of Applicant's remarks with respect to the operating state change means as well as an interpretation of Jordan et al. that is beyond any reasonable interpretation thereof.

Title 35 U.S.C. §112, second paragraph requires that a specification conclude with one or more claims that particularly point out and distinctly claim the subject matter regarded as the invention. Review of Applicant's remarks in the response filed on February 3, 2010 clearly

evidence the support in the application that the device can be configured for automatic reversing operation with any of a number of switch or control configurations. For example, in page 7, line 26 to page 8, line 2 of the specification, it is disclosed that the internal vibrator device include “an automatic operation switch 9” for switching on the automatic liberation operating mode. Such explicit disclosure is all that is required of 35 U.S.C. §112, second paragraph. Accordingly, Applicant believes the pending claims use language that is particular and distinct and that the claims are consistent with respect to the disclosure of the specification. Therefore, Applicant believes the pending claims satisfy the requirements of 35 U.S.C. §112, second paragraph.

With respect to the prior art rejections, upon review of the §132 Declaration submitted herewith, Applicant finds the continued assertion that the device of Jordan et al. is capable of the claimed operation disingenuous. The relevant portion of claim 1 actually recites “an operating state change device by which the internal vibrator device is able to be operated in a liberation operating state....” That is, it is not the operating state change device that is “optional” but the language of claim 1 defines that the mode of operation of the vibrating device may be varied by the operating state change device. Independent claim 17 also calls for an operating state change device that automatically reverses the direction of the electric motor at periodic time intervals to operate the vibrator device in a liberation operation state. Independent claim 20 calls for operating state change means for automatically reversing the direction of the electric motor at periodic time intervals to operate the internal vibrator device in a liberation operating state. Each of the independent claims recites some structure that automatically reverses a direction of operation of the vibrator device. Contrary to the Examiner’s assertion that the device of Jordan

et al. inherently includes the structure to facilitate such operation, Jordan et al. cannot operate as recited in the pending claims.

As evidenced by the §132 Declaration from Inventor Mr. Michael Steffen, the claimed features are not inherent in Jordan et al. That is, Jordan et al. does not disclose, expressly or inherently, or remotely suggest, a vibrator device having an operating state change device or operating state change means that is capable of automatically reversing the direction of operation of the vibrator device as is called for in the pending claims. Applicant requests entry and consideration of the §132 Declaration.

Each of the pending independent claims explicitly recites that the periodic and automatic reversal is performed by an operating state change device or operating state means. There is no disclosure or suggestion, explicit or inherent, in Jordan et al., that the vibrator assembly disclosed therein include any structure that facilitates automatic reversal of the exciter operation at periodic time intervals as is called for in the pending claims. Accordingly, Applicant believes that claims 1-6 and 15-22 are patentably distinct thereover.

It is believed that each of the Examiner's rejections has been addressed and overcome, and allowance of each of pending claims 1-6 and 15-22 is respectfully requested. The Director is hereby authorized to charge the amount of \$1920.00, which includes the fee for the Request for Continued Examination and the fee for a three-month extension of time for entry and consideration of this paper, to Deposit Account No. 50-1170. Although no other fees are believed due, the Director is further authorized to charge any other fees, or credit any overpayment, considered payable in conjunction with this or any future communication, to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if such would help expedite prosecution of this application.

Respectfully submitted,



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